

Remarks:

Information disclosure Statement

An information disclosure statement was submitted to the USPTO on December 27, 2005. It is requested that the Examiner consider the listed references.

Restriction Requirement

Applicants maintain their traversal of the August 15, 2005 Restriction Requirement for the reasons stated in Applicants November 28, 2005 paper. Applicants reserve the right to file one or more divisional and/or continuation-in-part applications directed to non-elected subject matter.

Non-Statutory Double Patenting

Claims 1, 8, 12, 13-16, 22 and 26 are provisionally rejected under the judicially created doctrine of double patenting over co-pending application 10/497,452. Applicants submit herewith a terminal disclaimer disclaiming any patent term extending beyond the term of any patent granted based on co-pending application 10/497,452. In view of the attached terminal disclaimer, Applicants request reconsideration and withdrawal of the provisional rejection under the judicially created doctrine of double patenting.

35 USC §112 First Paragraph

Claims 13 and 14 are rejected under 35 US.C. §112, first paragraph. As claims 13 and 14 have been cancelled, it is requested that this rejection be withdrawn.

Claims 15, 16, 22 and 26 stand rejected as being non-enabled for pain prevention. Applicants traverse this rejection, and disagree with virtually all of the Examiner's analyses of the Wands factors. However, solely to advance prosecution of the instant claims Applicants have deleted the language referring to prevention or prophylaxis from these claims. In view of the discussed

amendments, it is respectfully requested that the Examiner reconsider and withdraw the rejections of claims 15, 15, 22 and 26 based on 35 USC §112, first paragraph.

35 USC §102

The Examiner has rejected certain claims to non-elected subject matter. Applicants will respond to such rejections if and when such subject matter is pursued in a divisional or continuation application. Applicants do not believe that a substantive response is required to a rejection of claims directed to non-elected subject matter.

Objections

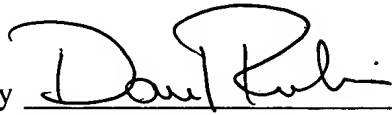
Applicants believe that the amendments made to the claims, herein, address the Examiner's objection that claims not be directed to non-elected subject matter.

* * *

If there are any issues outstanding after consideration of this Amendment, the Examiner is invited to contact the undersigned to expedite prosecution of this case.

Attorney for Applicants can be reached at the telephone number and address below. Correspondence should continue to be sent to the address below. Although no fees are believed to be due, any fees occasioned by this paper or any fee overpayments should be charged or credited to Deposit Account **13-2755**.

Respectfully submitted,

By 
David Rubin
Reg. No. 40,314
Attorney for Applicants

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065-0907
(732) 594-2675

Date: January 20, 2006